

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Larry Arvizo,

Plaintiff,

vs.

Adam Young, et al.,

Defendants.

No. CV-23-00061-PHX-SPL (JFM)

ORDER

Plaintiff Larry Arvizo filed a First Amended Complaint pursuant to 42 U.S.C. § 1983 (Doc. 9). An Application for Default against Defendant Tarique Coleman (Doc. 29) was granted on January 23, 2025 (Doc. 30). Plaintiff has filed a Motion for Default Judgment (Doc. 31), and Defendant Coleman has filed a Motion to Set Aside (Doc. 32). The Honorable James F. Metcalf, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 33), recommending the Court set aside the entry of default.

A district judge “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b); *see also* Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”). When a party files a timely objection to an R&R, the district judge reviews *de novo* those portions of the R&R that have been “properly objected to.” Fed. R. Civ. P. 72(b)(3). A proper objection requires specific written objections to the findings and recommendations

1 in the R&R. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1118–19 (9th Cir. 2003);
2 28 U.S.C. § 636(b)(1). It follows that the Court need not conduct any review of portions to
3 which no specific objection has been made. *See Reyna-Tapia*, 328 F.3d at 1121; *see also*
4 *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (discussing the inherent purpose of limited review
5 is judicial economy). Further, a party is not entitled as of right to *de novo* review of
6 evidence or arguments which are raised for the first time in an objection to the R&R, and
7 the Court’s decision to consider them is discretionary. *United States v. Howell*, 231 F.3d
8 615, 621–622 (9th Cir. 2000).

9 The parties did not file objections, which relieves the Court of its obligation to
10 review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149
11 (1985) (“[Section 636(b)(1)] does not... require any review at all... of any issue that is not
12 the subject of an objection.”); Fed. R. Civ. P. 72(b)(3) (“The district judge must determine
13 *de novo* any part of the magistrate judge’s disposition that has been properly objected to.”).
14 The Court has nonetheless reviewed the R&R and finds that it is well-taken. The Court will
15 thus adopt the R&R in full. *See* 28 U.S.C. § 636(b)(1) (stating that the district court “may
16 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
17 magistrate”); Fed. R. Civ. P. 72(b)(3) (“The district judge may accept, reject, or modify the
18 recommended disposition; receive further evidence; or return the matter to the magistrate
19 judge with instructions.”). Accordingly,

20 **IT IS ORDERED** that Magistrate Judge James F. Metcalf’s Report and
21 Recommendation (Doc. 33) is **accepted** and **adopted** by the Court.

22 **IT IS FURTHER ORDERED** that the Motion to Set Aside (Doc. 32) is **granted**
23 and the Entry of Default against Defendant Coleman (Doc. 30) is **set aside**.

24 **IT IS FURTHER ORDERED** that the Motion for Default Judgment (Doc. 31) is
25 **denied**.

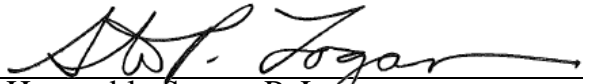
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1 **IT IS FURTHER ORDERED** that Defendant Coleman shall have **seven (7) days**
2 from the date of this Order to file an answer or otherwise respond to the First Amended
3 Complaint.

4 Dated this 1st day of April, 2025.

5 
6 Honorable Steven P. Logan
7 United States District Judge
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